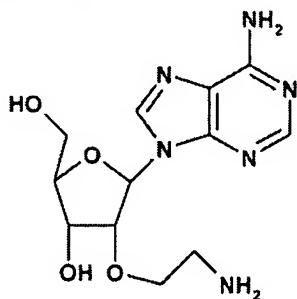


Remarks/Arguments

This filing is in response to the Notice of Non-Compliant Amendment. Claims 1-39, 48-51 and 54-58 are pending as elected Group 1, as filed on 3 April 2008 in response to the Restriction Requirement. Applicants note that a species election was made in the 3 April 2008 filing, but the instant Notice of Non-Compliant Amendment was issued because the specific structure or chemical name was not provided.

Election / Restriction

The previous election may be summarized as Formula I, wherein $A = -C(H)(R_3)-N(R_1)(R_2)$; $n=0$; R_1 , R_2 and $R_3 = H$, V and W are an internucleosidic linkage group, and B is a nucleoside radical. Applicants note that the elected species complies with a nucleoside containing a 2' aminoethoxy moiety such as provided in Example C1, more especially the moiety identified as AE on page 94 of the specification. If further election is required, Applicants respectfully request the adenosine nucleoside at the bottom of page 93, wherein X is the 2' aminoethoxy moiety AE. Applicants find it difficult to provide a chemical name to this moiety other than a crude attempt at naming it 2'-aminoethoxy adenosine. A structure of the nucleoside is provided below:



Please note that Applicants believe that any internucleosidic bridge and any base radical known in the art are part of the invention elected with the 2'-aminoethoxy moiety. Furthermore, Applicants believe the elected invention includes the use of such modified nucleoside in any polynucleotide strand. Finally, Applicants retain the right to pursue all non-elected subject matter in future application.

Double Patenting Rejection

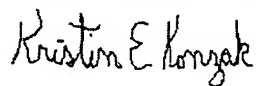
Applicants believe the double patenting rejection over the parent application, now issued as US Patent No. 6670468 (the '468 patent) is improper and should be withdrawn. The '468 patent has granted claims drawn to "a process for preparing a compound of the formula (Ia)". The Restriction Requirement mailed October 3, 2007, in the instant application lists unelected

Group II, drawn to a "Process for preparing the compound of formula Ia". Therefore, the claims of the '468 patent would clearly fall within the scope of restrictive Group II.

The present claims are from elected Group I, drawn to an oligonucleotide derivative, which the Restriction Requirement clearly notes is a patentable distinct invention from the above listed Group II. Therefore, Applicants believe that file history already states that the claimed subject matter is patently distinct, and request that the double patenting rejection be withdrawn.

If the Examiner has any questions, please feel free to contact the attorney listed below.

Respectfully submitted,



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